

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	CAUSE NO. 3:05cr18 AS
CARL A. MUFFLEY,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On October 21, 2005, after pleading guilty pursuant to a plea agreement, the Defendant, Carl A. Muffley, filed a *Pro Se* Motion to Withdraw His Plea of Guilty. On November 1, 2005, the United States filed a Motion to Strike the Defendant's *Pro Se* Filing. On November 4, 2005, the Honorable Allen Sharp referred this case to the undersigned to file a Report and Recommendation regarding the Defendant's *pro se* motion to withdraw the guilty plea. On November 28, 2005, a brief hearing was conducted on the limited questions on whether the Defendant, Carl A. Muffley, intended to proceed *pro se* or whether he intended to proceed with his retained counsel.

In order to determine whether the Defendant wished to proceed with or without his retained counsel, the Court placed the Defendant under oath and simply asked him. The Defendant clearly and unequivocally expressed his desire to continue with his retained counsel and not to proceed *pro se*. The Defendant's personal statement comports with the understanding of his retained counsel that he did not wish to terminate the attorney/client relationship.

Therefore, because the law does not allow for hybrid representation and because the Defendant has clearly and unequivocally expressed his desire to be represented by his retained

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counsel, the undersigned **NOW RECOMMENDS** that the motion of the United States to strike
pro se filings be **GRANTED**.

NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed.R.Civ.P. 72(b). **FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.**

SO ORDERED.

Dated November 29, 2005

s/Christopher A. Nuechterlein
Christopher A. Nuechterlein
United States Magistrate Judge